#13

DM-6999A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: CASE NO.: DM-6999A

RAJOPADHYE, ET AL.

APPLICATION NO.: 09/599,890 GROUP ART UNIT: 1624

FILED: JUNE 21, 2000 EXAMINER: BALASUBRAMANIAN

FOR: VITRONECTIN RECEPTOR ANTAGONIST PHARMACEUTICALS

WILMINGTON, DELAWARE

FEBRUARY 7, 2002

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Petition Information
Crystal Park One, Suite 520

Applicants respectfully submit a petition for revival of the above-referenced patent application under 37 C.F.R. § 1.137(b) in response to Notice of Abandonment mailed October 17, 2001. Also, Applicants submit that the entire delay in filing the required reply from the due date for the reply until the filing of the grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

1. This application became unintentionally abandoned as a result of the following circumstances:
   - i) Applicants received an Office Action mailed April 4, 2001, wherein a restriction under 35 USC 121 was raised. A copy of the Office Action is enclosed.
   - ii) A Continued Patent Application (CPA) under 37 CFR 1.53(d) was filed September 7, 2001 on this application and a petition for an extension of time was timely filed on October 1, 2001. A copy of the CPA and extension of time are enclosed.

iii) An Office Action, mailed September 21, 2001, was received by the Applicant October 1, 2001. This Office Action stated that request for the CPA was treated as a RCE because the CPA practice was no longer applicable. However, although the RCE was not applicable to this application, the Examiner failed to check one of the boxes 1-7 to indicate why an RCE was not applicable or what the status of the application was. As a result, Applicants application went abandoned. A copy of the Office Action is enclosed.

iv) Applicants received, on October 29, 2001, a Notice of Abandonment dated October 17, 2001, indicating the Application went abandoned for failing to respond to the Office Action mailed April 4, 2001. A copy of the a Notice of Abandonment is enclosed.

2. In view of the aforesaid, Applicants respectfully submit that this application became unintentionally abandoned.
3. In view of 37 CFR §1.181(f) applicants submit a terminal disclaimer.
4. Please charge a fee of $1280.00 under 37 C.F.R. § 1.17(m) and a fee of $110 under 37 C.F.R. § 120(d), any additional fees, or credit any overpayment, to Deposit Account No. 023850.
5. Two extra copies of this Petition are enclosed for accounting purposes.
6. Acknowledgement of the active status of the above-identified application is respectfully requested.

7. Applicants also submit herewith a response to the Office Action mailed April 4, 2001.

Respectfully submitted,

Peter L. Dolan, Ph.D.
Agent for Applicant
Registration No. 46,307
Phone: 302-695-7776

Bristol-Myers Squibb Pharma Company
Patent Department
P.O. Box 4000,
Princeton, New Jersey 08543-4000.

PTO/SB/17 (09-00)
Approved for use through 10/31/2002. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2001

OIPE JC35 FEB 0 8 2002 PATENT & TRADEMARK OFFICE

RECEIVED FEB 19 2002 TECH CENTER 1600/2900

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 1178.00

Complete if Known	
Application Number	09/599,890
Filing Date	June 21, 2000
First Named Inventor	Rajopadhye et al.
Examiner Name	V. Balasubramanian
Group / Art Unit	1624
Attorney Docket No.	DM-6999-A

METHOD OF PAYMENT (check one)

1. ■ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 04-1928

Deposit Account Name: DuPont Pharmaceuticals Company

■ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	710.00
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filling fee	

SUBTOTAL (1) ($)710.00

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below	=	Fee Paid
Total Claims	46	-** =	26	X	18	=	468
Independent Claims		-3** =	0	X		=	0
Multiple Dependent				X		=	468

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)1178.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	130	123	50	Petitions related to provisional applications	
126	240	126	240	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179 (RCE)	710	279	355	Request for Continued Examination	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify)	

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 0

SUBMITTED BY

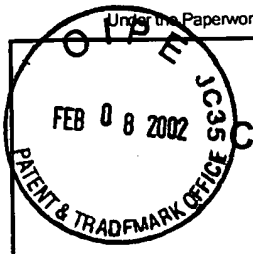
Complete *(if applicable)*

Name (Print/Type)	Peter L. Dolan	Registration No. Attorney/Agent	46,307	Telephone	302-992-4528
Signature				Date	September 7, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/97 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE



Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office

on October 1, 2001 .
Date

Ellen M. Godfrey
Signature

ELLEN M. GODFREY
Type or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Petition for Extension of Time Under 37 CFR 1.136(a) for Serial No. 09/599,890
Fee Transmittal for Seial No. 09,599,89077
OUR DOCKET NO. DM-6999-A

ATTENTION: EXAMINER V. Balasubramanian
FACSIMILE: 703-308-2742

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3517
CONNECTION TEL	817033082742
SUBADDRESS	
CONNECTION ID	TC 1600
ST. TIME	10/01 14:27
USAGE T	02'12
PGS.	3
RESULT	OK

PTO/SB/97 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office

on October 1, 2001
Date

Ellen M. Godfrey
Signature

ELLEN M. GODFREY
Type or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

P tition for Extension of Time Under 37 CFR 1.136(a) for Serial No. 09/599,890
Fee Transmittal for Seial No. 09,599,89077
OUR DOCKET NO. DM-6999-A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: CASE NO.: DM-6999A

RAJOPADHYE, ET AL.

APPLICATION NO.: 09/599,890 GROUP ART UNIT: 1624

FILED: JUNE 21, 2000 EXAMINER: BALASUBRAMANIAN

FOR: VITRONECTIN RECEPTOR ANTAGONIST PHARMACEUTICALS

WILMINGTON, DELAWARE

October 1, 2001

Petition for Extension of Time Under 37 CFR §1.136(a)

Hon. Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

Applicant(s) hereby petitions for an extension of time under 37 CFR 1.136(a) in the above-identified application for five (5) months to maintain pendancy of this application for the Continued Prosecution Application (CPA) filed September 7, 2001.

Please charge the associated fee of $1,960 pursuant to 37 CFR 1.17 to Deposit Account No. 04-1928. If this amount is in error, please debit or credit Deposit Account No. 04-1928.

If more time or any fee is needed to file the accompanying paper(s), please consider this a petition for such time and an authorization to debit Deposit Account No. 04-1928 for any required fee.

02/10/2003 CSTYLES 00000001 041928 09599890
01 FC:1255 1960.00 CH

Respectfully submitted,

Dated: October 1, 2001

Peter L. Dolan, Ph.D.
Agent for Applicants
Registration No. 46,307

Adjustment date: 05/14/2003 PSTANBAC
02/10/2003 CSTYLES 00000001 041928 09599890
01 FC:1255 1960.00 CR

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/599,890	06/21/00	RAJUPADHYE M	DR-6999-A

PLD

NM11/0921

DUPONT PHARMACEUTICALS COMPANY
E I DUPONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

EXAMINER
BALASUBRAMANIAN, V

ART UNIT	PAPER NUMBER
1624	

DATE MAILED: 09/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

DOCKETED: 10/2/01
Due Date:
No Action Required: dnl

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT		ATTY DOCKET NO./TITLE
09/599,890	06/21/00	RAJOPADHYE	M	DM-6999-A

NM11/0921

DUPONT PHARMACEUTICALS COMPANY
E I DUPONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

BALASUBRAMANIAN, V

DATE MAILED: 09/21/01

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 09/21/01 is improper for reason(s) indicated below:

☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).

☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).

☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.

☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).

☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings is terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.

☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the **request for a CPA has been treated as a RCE** because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

_____, Examining Group _____

(703) 30_____

FORM PTO-2051 (Rev 3/2001)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/599,890	06/21/00	RAJOPADHYE M	CM-6999-A

HM12/1017
DUPONT PHARMACEUTICALS COMPANY
E I DUPONT DE NEMOURS AND COMPANY
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

PLD

EXAMINER	
BALASUBRAMANIAN V	
ART UNIT	**PAPER NUMBER**
1624	12

DATE MAILED: 10/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

DOCKETED: 11/2/01
Due Date:
No Action Required: dmb

spoke w/Peter will review

DOCKETED: 10/31/01
Due Date:
No Action Required: dmb

DOCKETED: 11-15-01
Due Date: abd.
No Action Required: dcp

Notice of Abandonment	Applicati n No. 09/599,890	Applicant(s) RAJOPADHYE ET AL.	
	Examiner Venkataraman Balasubrasubramanian	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *04 April 2001*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CRF 1.113 (a) to the final rejection.
   (A proper reply under 37 CRF 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed new formal drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ The proposed new formal drawings filed on _____ are not acceptable and the period for reply has expired.
   (c) ☐ No proposed new formal drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT 1624

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/599,890	06/21/00	RAJOPADHYE	N DM-6999-A

PLD

HM12/0404

DUPONT PHARMACEUTICALS COMPANY
E I DUPONT DE NEMOURS AND COMPAN
LEGAL PATENTS
1007 MARKET STREET
WILMINGTON DE 19898

EXAMINER	
BALASUBRAMANIAN, V	
ART UNIT	PAPER NUMBER
1624	

DATE MAILED: 04/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

DOCKETED: 4-9-01
Due Date: 5-4-01
No Action Required: dlg

Office Action Summary

Application No.	Applicant(s)
09/599,890	Rajophadye et al.
Examiner	**Group Art Unit**
Venkataraman Balasubramanian	1624

☐ Responsive to communication(s) filed on _____.

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-75 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT R

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-9

☐ Notice of Informal Patent Application, PTO-152

--- SEE OF

DETAILED ACTION

Claims 1-75 are pending.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6 and 42-46, drawn to compound bearing indazole nonpeptide Ia or Ib as targeting moiety not bound to surfactant or bound to a surfactant wherein X^{1d}, X^{2d}, X^{3d}, X^{4d}, are all carbon and a chelator, classified in class 548, subclass 361.1 and various other classes and subclasses depending upon the preferred embodiments of chelating group and other hetero ring substituents.

II. Claims 1-6 and 42-46, drawn to compound bearing indazole nonpeptide Ia or Ib as targeting moiety not bound to surfactant or bound to a surfactant wherein X^{1d}, X^{2d}, X^{3d}, X^{4d}, are nitrogens and carbons and a chelator not provided for in invention I, classified in class 546, subclass 119, class 544, subclass 238, class 544, subclass 262, class 544, subclass 405, class 544, subclasses 180, 182, and various other classes and subclasses depending upon the preferred embodiments of chelating group and other hetero ring substituents.

III. Claims 1-6 and 42-46, drawn to compound bearing indazole nonpeptide Q is any one of the two peptide recited in claim 2 as targeting moiety not bound to surfactant or bound to a surfactant and a chelator, classified in classes various subclasses various

depending upon the preferred embodiments of chelating group and other hetero ring substituents.

IV. Claims 7-10 and 58-64, drawn to a kit comprising compound bearing indazole nonpeptide Q , with or without chemotherapeutic agents, and radiosensitizer, classified in class 206, subclass 569 and others upon the preferred embodiments of Q , other hetero rings , chelating group .and structural make-up of chemotherapeutic agents and radiosensitizer.

V. Claims 11-30, 47-49, 56-57 and 65-67, drawn to multiple compositions, classified in class 514, subclass 221, class 514 subclasses various depending upon the preferred embodiment of chelator group, diagnostic or therapeutic or radiopharmaceutical or X-ray contrast agent (eg. class 424, subclass 9.4, 9.5, 9.51 etc).

VI. Claims 31-42, 50-55 and 68-74 drawn to multiple method of use of compound bearing indazole nonpeptide Q, with or without chemotherapeutic agents, and radiosensitizer classified in class 514, subclass 221, class 514 subclasses various depending upon the preferred embodiment of chelator group , other variables hetero rings , structural make-up of chemotherapeutic agent and radiosensitizer.

VII. Claim 75 drawn to a process for preparation of diagnostic or therapeutic metallopharmaceutical classified in class 514, and others subclasses various depending upon the preferred embodiment of targeting moiety and chelator which are not structurally defined in the claim.

If any one of the invention I-III is elected, applicants should elect a suitable chelating group and working example for examination of elected invention . In addition, applicant may elect a specific composition and a specific method of use for a specific disease form inventions V and VI respectively.

If invention IV (ie. kit) is elected applicant should elect any one of the targeting moiety as in invention I-III and chelating group, an appropriate chemotherapeutic agent/ radiosensitizer if applicable and working example for examination of elected invention .

If invention V is elected, applicants should elect any one of the targeting moiety as in groups I-III and chelating group, a specific intended use as recited in invention and working example for examination of elected invention.

If invention VI is elected , applicants should elect I) a specific metal,

ii) a specific chelator group and iii) a specific target moiety, namely, indazole nonpeptide, with working example and iv) a specific disease for examination of the elected invention .

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are independent and distinct from each other because they are directed to structurally dissimilar compounds that lack common core namely indazole vs isomeric pyridinopyrazoles vs isomeric pyridazinopyrazoles vs isomeric pyrimidinopyrazoles versus pyrazinopyrazole vs isomeric triazinylpyrazoles vs tetrazinylpyrazole. Consequently, the inventions have different classifications and require separate prior art searches. They can be made and used independently. Art which may render obvious or anticipate one of the groups would not necessarily

do the same for the other group. Each can support a patent as the compounds of each group are capable of being utilized alone not in combination with other members listed in the Markush group.

Search of these class of compounds with variants permitted would pose a serious burden.

Inventions I-III and IV are related as product and process of use of the product as kit.

They are distinct from each other as there is no required combination. The kit can be used independently. Prior art which anticipates or renders inventions I-III obvious may not be applicable to the kit. The issues of patentability of kit such as 112 issues and enablement may not be applicable to compounds of Inventions I-III.

Inventions I-III and V are related as product and multiple composition for different intended use of the composition. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the composition for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different composition of using that product (MPEP § 806.05(h)). In the instant case, the compound of claim 1 can be used as therapeutic radiopharmaceutical for cancer, arthritis etc as well as SPECT or PET diagnostic agents or ultra sound contrast agents as evidenced by applicants claims. Similarly, it is clear from the claims that the process of using can be practiced with materially different products containing a non radioactive material as well as radioactive metals.

Similarly the ultrasound contrast agents, invention XIII is independent and distinct

Inventions I-III and VI are related as product and multiple method of use The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using

the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the compound of claim 1 can be used as therapeutic radiopharmaceutical for cancer, arthritis etc as well as SPECT or PET diagnostic agents or ultra sound contrast agents as evidenced by applicants claims. Similarly, it is clear from the claims that the process of using can be practiced with materially different products containing a non radioactive material as well as radioactive metals.

Inventions V and VII are related as multiple pharmaceutical composition (product) and process of making them . The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for making the product as claimed can be practiced with another materially different product or (2) the product as claimed can be made by a materially different process (MPEP § 806.05(h)). In the instant case as noted above each of the pharmaceutical composition is distinct from one another and hence the process of making the composition is patentably distinct. Furthermore, scope of the claim 75 is broader than the composition claim and hence would raise different issues of patentability.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious

variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Due to the distinct nature of the inventions a restriction is set forth in writing.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (703) 305-1674. The examiner can normally be reached on weekdays from 8.30 AM to 5.00 PM.

The fax phone number for the organization where this application or proceeding is assigned (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

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4242

VB
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3/26/2001

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